



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

10/23/13

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Tom Cotton
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Cotton:

Thank you for your letter of July 24, 2013, regarding the proposed revisions to the U.S. Environmental Protection Agency's (EPA) underground storage tank regulations. Knowing that the majority of our regulated entities are small businesses, we agree it is important to recognize potential impacts to this sector. This was one of the main reasons why, when drafting the proposal, we made a concerted effort to propose provisions which would not require costly retrofits to existing underground storage tank (UST) systems, yet would help ensure protection of public health and the environment.

The EPA carefully evaluated the costs associated with the proposal and explained the agency's analysis in the regulatory impact assessment (RIA). Our analysis determined that the potential costs of the proposal did not reach a level that would require convening a Small Business Advocacy Review Panel. Although EPA did not convene a Panel, we sought extensive stakeholder input to help inform our rulemaking proposal.

Prior to the November 2011 proposal, the EPA engaged in a multi-year effort with stakeholders to identify appropriate updates and modifications to the UST regulations. Before the EPA started to draft regulatory language, the agency reached out to potentially affected parties to ask for their input on what changes to make to the UST regulations. Starting in March 2008, the EPA had conference calls, in person meetings, and shared emails with stakeholders. The EPA reached out to petroleum marketers and other owners and operators of UST systems, equipment manufacturers, vendors and service providers who work on the equipment, among others. Specifically, the EPA met with industry representatives of Petroleum Marketers Association of America (PMAA), American Petroleum Institute (API), National Association of Convenience Stores (NACS), SIGMA, National Association of Truckstop Owners (NATSO) and the Petroleum Transportation and Storage Association (PTSA). In addition to meeting with these stakeholders, the EPA also met with several individual marketing, equipment and service companies. The EPA held a series of in person meetings with these groups to gain their input on potential changes to the UST regulations. The feedback included information about field experience with UST system equipment, requests not to require extensive retrofits, and general support for a focus on operations and maintenance activities. These meetings were held March 17, 2008, April 17, 2008, June 18, 2008 and November 18, 2008.

The EPA documented a list of all of the ideas submitted by stakeholders during these meetings as well as through email. In January 2009, the EPA emailed this list of potential changes to the UST regulations to all stakeholders, and asked for their comments on the ideas. Based on all of the comments received in

response to the January 2009 email, the EPA narrowed the list of potential changes to the UST regulations. In June 2009, the EPA emailed the narrowed list to stakeholders. We invited stakeholders to submit their thoughts to us and to let us know if they would like to set up a phone call to discuss any of the issues. The EPA met with all industry representatives who asked to do so. Before, during, and since the end of the rulemaking comment period, we have held more than 100 meetings with stakeholders. From the list that the EPA developed through extensive stakeholder input, we drafted the proposal. In addition to meeting with all interested stakeholders, the EPA worked with the Small Business Administration's Office of Advocacy (SBA) before the proposal was published as well as during the public comment period. Following the EPA's rulemaking process, before publishing the proposal in the federal register, all other federal agencies were given an opportunity to review and comment on the proposal. SBA was an integral part of this process. In addition, we worked with SBA during the public comment period. SBA brought to our attention that many small businesses were confused by the proposed changes to wastewater treatment tanks. The EPA and SBA worked together to develop explanatory materials on these UST systems to provide the clarity sought by small business.

In order to ensure that members of the public had an opportunity to comment on the proposal, the EPA extended the comment period from 90 to 150 days. The agency takes the comments we receive during regulatory comment periods very seriously. After receiving comments, the EPA worked diligently to understand industry's cost information comments so that we could thoroughly evaluate our cost analysis. The EPA appreciates the detailed response from commenters, and has fully considered the comments including the compliance costs submitted by industry representatives. We are currently working to determine the appropriate path forward using the comments we received to help inform our decision making. Some of the changes to the proposal that the EPA is considering would reduce the costs of the final rule. We share your concern about the potential burden on small businesses and are working to minimize the costs while we maintain appropriate public health and environmental protection.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at Snyder.Raquel@epa.gov or (202) 564-9586.

Sincerely,

A handwritten signature in black ink that reads "Mathy Stanislaus". The signature is written in a cursive, flowing style.

Mathy Stanislaus
Assistant Administrator